

**BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Motion of)	
)	
SWIFT AIR, LLC d/b/a iAero Airways)	
)	
In the matter of 2020 U.S.-Havana Public)	
Charter Authorization Proceeding)	
)	

Docket OST-2020-0011

**OBJECTION OF WORLD AIR CHARTER, LLC
TO THE iAERO AIRWAYS MOTION FOR MODIFICATION OF US-HAVANA
ROUNDTRIP CHARTER FLIGHT ALLOTMENT PROCEDURES**

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Counsel for World Air Charter, LLC

Dated: September 27, 2021

**BEFORE THE
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Application of)	
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World Air Charter, LLC. (“WAC” or the “Company”) hereby objects to the September 17, 2021 Motion of Swift Air, LLC d/b/a iAero Airways (“iAero”) for Modification of US-Havana Roundtrip Charter Flight Allotment Procedures (“iAero Motion”). For the reasons set forth herein, WAC strongly urges the Department to (a) consider and approve the September 1, 2021 Application of World Atlantic Airlines (“WAA”) for allocation of charter flights from the charter pool (“WAA Application”) and (b) reject iAero’s attempt to defer allocations for the 2021-2022 charter year in order to obtain an advantage in the 2022-2023 charter year.¹

¹ In addition to asking the Department to defer action on the pending WAA Application, iAero seeks automatic advance allotment of HAV charter flights for the 2022-2023 charter year to both iAero and WAA. WAC does not object to this portion of the Motion, if iAero – and more importantly the Department – will allow WAA to operate the allotted flights on behalf of WAC, WAA’s current charter operator customer.

iAero opens its Motion by asking the Department to modify the advance allotment procedure for the 2022-2023 charter year (the third charter year). To accomplish this, iAero wants the Department to suspend the Order 2020-5-7 procedures for allocating to WAA (and other applicants) charter flights that are currently available in the charter pool for use in 2021-2022 (the second charter year). iAero claims that the pending WAA application is a “serial application[]” that “will take a substantial portion of the business of iAero and its charter operator customers.”² In other words, iAero wants to prevent WAA – on behalf of WAC – from competing in the U.S.-Havana charter market during the current 2021-2022 charter year. iAero does this in a motion that seeks a procedural change for the 2022-2023 charter year, even though the Department is not yet considering allotments for that latter year.

WAC disagrees strongly with any suggestion that its direct air carrier will take the business of iAero. As the Department knows, WAA filed its Application on September 1, 2021, seeking allocation of 218 roundtrip charter flights from the charter pool. No other direct air carrier filed an application on that date or in that week. The WAA Application, therefore, is an “exclusive request” the Department should have processed

² See iAero Motion at pages 6-7. iAero includes the 218 flights WAA is requesting in the total number flights it claims is being “stolen” from iAero. While it is relatively easy to count the flights requested in the pending applications for allocation from the charter pool, it is virtually impossible to determine the number of flights that should be available in the pool. Havana Air, for example, stated in its September 14, 2021 letter that a new direct air carrier will operate charter flights that were previously allotted (in advance) to WAA. And yet, the Global Crossings Airlines Group d/b/a GlobalX application seeks allocation of significantly more flights than the Department allotted in Order 2020-12-10 to WAA. This begs the question as to whether (i) Havana Air plans to use GlobalX as its only direct air carrier and (ii) iAero has not yet returned to the charter pool flights that may have been allotted for Havana Air. In any event, as WAC understands it, WAA is seeking allocation of nearly the same number of flights it was previously allotted in advance.

after the response deadline. In addition, the Department does not need to reallocate flights iAero returned to the charter pool in order to act on WAA's pending Application. The Department may process the WAA Application by allocating flights WAA has returned to the charter pool.³

To be clear, the Department stated in Order 2020-5-7 that it will consider applications for allocation from the charter pool on a "first come, first served" basis. Although the Department clarifies that it will consider "mutually exclusive requests" on a prorata basis so that the cap is not exceeded, it does not explain or define "mutually exclusive." WAC believes it is reasonable to interpret this term to mean applications filed on the same date or, possibly, the next day. As mentioned above, WAA filed its Application on September 1, 2021. iAero did not; it waited nearly two weeks before submitting an application. If the "first come, first served" allocation procedure is to have any meaning at all, the Department should consider WAA's Application first and grant WAA's Application in full.

In addition, charter flights available in the charter pool do not belong to any specific direct air carrier. When iAero returned flights to the charter pool (as it has indicated in its Motion), it lost the right to claim or use those flights. So long as there are charter flights available in the pool, the Department may allocate them to any carrier

³ WAA has returned most of the charter flights the Department, in Order 2020-12-10, allotted to WAA in advance. WAC understands that WAA returned eleven (11) flights on July 30, eleven (11) flights on August 17, ten (10) flights on August 30, and 193.5 flights on September 8, 2021. These returned flights are available in the charter pool for allocation to WAA under the "first come, first served" procedures in Order 2020-5-7.

that applies for allocation on a first come, first served basis. This is the procedure expressly stated in Order 2020-5-7.

WAC also disagrees with iAero's characterization that the "charter pool has created an opening for opportunistic charter carriers seeking to deploy excess capacity." In WAC's opinion, WAA is not an opportunistic carrier attempting to reduce iAero's original allocation. Order 2020-12-10 allotted in advance **2,978** flights to iAero and **256** flights to WAA for the 2021-2022 charter year. WAA's Application for allocation of **218** flights from the charter pool can hardly be described as an attempt to reduce iAero's original allotment. It also cannot be described as an attempt to corner the U.S.-Havana charter market. If any carrier is cornering the market, it is iAero, not WAA.

WAA is exercising the right granted in Order 2020-5-7 to apply for and operate charter flights that are available in the charter pool. WAC plans to seek Part 380 authorization after the Department allocates charters to WAA, so that WAC can enter the U.S.-Havana charter market and arrange charter air transportation for individuals who are licensed to travel to/from Cuba ("Licensed Travelers"). These will be new charter services, which WAC believes are necessary to meet the demand of Licensed Travelers for reasonably priced charter air transportation between Miami International Airport and Havana-José Martí International Airport. Because WAC's proposed services will add competition in an already established and highly regulated market, the Department should reject iAero's attempt to prevent WAC from offering such services

and should grant WAA's request, in its entirety, for 218 charter flights for use during the 2021-2022 charter year.

WHEREFORE, World Air Charter respectfully (a) supports the WAA Application for allocation of 218 charter flights from the 2021-2022 U.S.-Havana charter pool and (b) objects to iAero's Motion to defer allocations for the 2021-2022 charter year in order to obtain an advantage in the 2022-2023 charter year.

Respectfully submitted,

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Lonnie A. Pera

Lonnie Anne Pera

Counsel for World Air Charter, LLC

Dated: September 27, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 2021, a copy of the foregoing APPLICATION was served by electronic mail on the parties named below:

Lonnie A. Pera

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